



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BAUSCH & LOMB INCORPORATED
ONE BAUSCH & LOMB PLACE
ROCHESTER NY 14604-2701

COPY MAILED

FEB 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Donald Charles Grove	:	
Application No. 10/732,704	:	DECISION ON PETITION
Filed: December 10, 2003	:	
Attorney Docket No. P03418	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed December 14, 2007, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181, in light of petitioner's request to withdraw the Notice of Abandonment and refund the petition fee.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed August 9, 2007. This Notice set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on November 10, 2007. The Office mailed a Notice of Abandonment on December 5, 2007.

On petition, applicant asserts that he filed an Issue Fee Transmittal, form PTOL-85b, on November 8, 2007. In support thereof, applicant has included *prima facie* evidence of its timely filing by submitting a copy of an Auto Reply Facsimile Transmission Receipt. See MPEP 503. Further, a review of Office records indicates there was a sufficient balance in petitioner's deposit account to charge the issue and publication fees on that date.

In view thereof, the holding of abandonment is withdrawn.

Given the basis for granting this petition, no petition fee has been charged.

However, as petitioner did not present any evidence that the issue and publication fees were ever charged to his deposit account, the \$1440 issue fee and \$300 publication fee have been charged to Deposit Account No. 02-1425, as authorized in the PTOL-85b filed November 8, 2007.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

A handwritten signature in cursive script, appearing to read "Cliff Congo".

Cliff Congo
Petitions Attorney
Office of Petitions